

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CWP No. 16659 of 2007 (O&M)

Date of decision : 11.12.2017

Mangal Singh (deceased) through LRs and another .. Petitioners.
versus
The State of Haryana and others .. Respondents

Coram: **Hon'ble Mr. Justice Rajesh Bindal.**
 Hon'ble Mr. Justice Gurminder Singh Gill.

Present: Mr. Rajiv Atma Ram, Senior Advocate with
 Mr. Ranjit Singh Kalra, Advocate, for the petitioners.

Mr. Ankur Mittal, Additional Advocate General, Haryana,
Mr. Shivendra Swaroop and Mr. Manoj Dhankhar, Assistant
Advocate Generals, Haryana.

Mr. Chetan Mittal, Senior Advocate with
Mr. Harsh Bungar and Ms. Rubina, Advocates, for DLF.

Rajesh Bindal, J.

This order will dispose of five writ petitions bearing CWP Nos.
16659 to 16661, 18178 of 2007 and 13852 of 2008, as common questions of
law and facts are involved therein.

The brief facts of the case are that the land measuring 53 acres
was sought to be acquired vide notification under Section 4 of the Land
Acquisition Act, 1894 (for short, 'the 1894 Act') dated 26.8.2003, in the
areas of revenue estates of villages Nathupur Hadbast No.67, Sarhol
Hadbast No. 70, Shahpur Hadbast No. 69, Sikenderpur Ghosi Hadbast No.
68, Dundhera Hadbast No. 66, Tehsil and District Gurgaon (now
Gurugram), for development and utilisation thereof for residential,
commercial, institutional, green belt, Sectors 24, 25, 25-A, Gurgaon. It was
followed by notification under Section 6 of the 1894 Act dated 10.8.2004

acquiring 43.23 acres of land. Land measuring 9.77 acres was released while accepting objections under Section 5-A of the 1894 Act.

Learned counsel for the petitioners submitted that the petitioners are owners of small-small portions of land located at different places in Sectors 24, 25 and 25A, Gurugram, for development of which land in question is sought to be required. When notification under Section 4 of the 1894 Act was issued on 26.8.2003, land measuring 53 acres of land was notified, however, the area was reduced when notification under Section 6 of the 1894 Act was issued on 10.8.2004. It merely mention 43.23 acres of land. Even thereafter substantial land was either released from acquisition or licenses were granted or it was noticed that the same had already been acquired by different departments. Finally the award was announced by the Land Acquisition Collector (for short, 'the Collector') for 13.4087 acres of land, that too at six different occasions on 4.8.2006, 12.12.2006, 20.12.2006, 21.7.2009, 31.8.2009 and 4.2.2013. The land is located in small-small pockets at different locations and the entire area has been developed by DLF and even known as DLF Sector. It has been acquired for the purpose of transferring the same to DLF for its use. Otherwise the State cannot possibly plan the same being small-small pockets located at different places and not properly shaped. There is no inter-connectivity between different pockets. These pockets have access through the DLF areas only. Unless the DLF consents to grant access to those areas, it will not be possible even to use those pockets. It is for this reason that no utilisation plan could be prepared by the State till date. The acquisition being not for public purpose deserves to be set aside.

It was further submitted that out of the total land for which the

award was announced, acquisition proceedings of 3.36 acres of land has already lapsed in view of the provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short “the 2013 Act”). The writ petitions filed by the landowners therein were allowed by this Court.

On the other hand, learned counsel for the State could not dispute the basic fact that the land for which finally award was announced, was substantially less than the area which was notified under Section 4 of the 1894 Act. He further did not dispute the fact that the land acquired vide notification in question is located in different-different pockets and further no utilisation plan has been prepared till date. It is further not disputed that for the area around the acquired land, licenses have been granted to DLF.

Heard learned counsel for the parties and perused the paper book.

In the case in hand, vide notification issued on 26.8.2003 under Section 4 of the 1894 Act, land measuring 53 acres was sought to be acquired for development and utilisation as residential, commercial, institutional, green belt, Sectors 24, 25, 25-A, Gurugram. The notification suggests, the land is located in revenue estates of villages Nathupur, Sarhol, Shahpur, Sikenderpur Ghosi and Dundhera, Tehsil and District Gurgaon. After accepting the objections filed by the landowners under Section 5-A of the 1894 Act, 9.77 acres of land was released from acquisition and the area notified while issuing notification under Section 6 of the 1894 Act was 43.23 acres. Even thereafter before the award was announced by the Collector on 4.8.2006, license was granted for the area measuring 15.478 acres and some part of the land was found to have been already acquired,

hence, finally award was announced only for 13.4087 acres of land. Strange part is that even for those small area, there were six different awards announced on 4.8.2006 for 8.42 acres, on 12.12.2006 for 0.29 acre, on 20.12.2006 for 0.53 acres, on 21.7.2009 for 1.26 acres, on 31.8.2009 for 2.14 acres and on 4.2.2013 for 0.7687 acres of land.

As per the site plan produced by learned counsel for the State in Court, the land in question is located in different-different small-small pockets of odd sizes at number of locations which are not connected with each other.

It is further not in dispute that no utilisation plan of the area could be finalised or the land utilized till date though award was announced 11 years back. It is further not in dispute that small-small portions of land, which have been acquired vide impugned notification, will have no access in case DLF which has been granted the license for development of the entire sector does not grant the same to the State, as these portions of land are land locked. The area is known as DLF Sector. Even out of 13.4087 acres of land, for which award was finally announced, acquisition proceedings of 3.36 acres of land was lapsed in view of the provisions of Section 24(2) of the 2013 Act vide various orders passed in CWP Nos. 23622 of 2011, 13796, and 15720 of 2014.

The writ petition bearing CWP No. 21519 of 2012- Archna Gupta vs The State of Haryana and others, decided on 29.11.2013 along with bunch of writ petitions, filed earlier by one of the landowners challenging the acquisition was dismissed upholding the acquisition. In that petition, it was directed that the State Government and the HUDA shall prepare a utilisation plan of the acquired land in a time bound manner. It

shall be notified within one year and the sites be utilized within two years thereafter. The land is not to be transferred to any private builder-cum-developer. On failure, the petitioner therein was given liberty to seek release of the acquired land. Special Leave to Appeal (C) No. 7360 of 2014, filed against that order was dismissed by Hon'ble the Supreme Court on 6.2.2015. It remains undisputed that even for that portion of land no utilization plan has been prepared till date and the dilapidated construction raised thereon still exist on that area.

From the facts as have been noticed above, it is crystal clear that the land is not acquired for any public purpose as the same cannot possibly be utilized for the purpose it was acquired, rather it seems to be an exercise to benefit some other persons. The action otherwise also apparently is not keeping in view the public purpose as out of 53 acres of land notified under Section 4 of the 1894 Act, the award was finally announced only for 13.4087 acres of land and that too for small-small portions at different times.

For the reasons mentioned above, in our view, the acquisition in question deserves to be quashed. Ordered accordingly.

The writ petitions are allowed.

(Rajesh Bindal)
Judge

11.12.2017
vs

(Gurvinder Singh Gill)
Judge

Whether speaking/ reasoned

Yes/No

Whether Reportable

Yes/No